

Appl. No. 09/728,242
Amdt. dated April 30, 2004
Reply to Office Action of December 31, 2003

Remarks

Claims 1-20 are presented for Examiner Anderson's consideration.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the following remarks is respectfully requested.

By way of the Office Action dated December 31, 2003, Examiner Anderson rejected claims 1, 2, 4, 7-10, 12, 14, and 16-20 under 35 U.S.C. 102 (e) as being anticipated by Ahr et al. (H1298). This rejection is **traversed** to the extent it is applied to the currently written claims for the following reasons.

For a reference to anticipate under 35 U.S.C. § 102, it must teach the combination of each and every aspect of a claim. It should be noted that as currently worded, claim 1 is directed to, among other things, an **expandable** absorbent material **without cellulosic fibers, consisting essentially of** superabsorbent and **crimped** thermoplastic fibers Currently worded claim 16 is directed to a surge material for personal care products comprising an **expandable** absorbent material without the use of cellulosic fibers.... consisting essentially of superabsorbent **particles**..... and **crimped conjugate** thermoplastic fibers..... Currently worded claim 19 is directed to a retention material comprising an **expandable** absorbent material without the use of cellulosic fibers, ... consisting essentially of superabsorbent **particles**..... **crimped conjugate** thermoplastic fibers.....

Applicants respectfully assert that the Ahr reference never mentions either **crimped** or **conjugate** fibers, at least one of which, are components of each of the independent claims. The Examiner asserted that the thermoplastic fibers are fused, such that the fibers will be mechanically crimped. In support of this proposition, the Examiner cited Col. 2, lines 38-39 of the Ahr reference. The particular section cited by the Examiner does not relate to crimped fibers at all, but to the bonding that occurs between a core layer and an attached hydrophobic facing layer, and not to fibers within the core layer per se. It certainly does not discuss "mechanical" crimping of the fibers, only that the layers are bonded.

The Examiner further asserts that "the thermoplastic fibers are joined together by fusing, and are therefore conjugate fibers". As Applicants' Application states in the Specification on page 4, lines 13-24; page 5, lines 1-25; and page 6, lines 1-4, "conjugate fibers" have a particular definition. Such fibers are produced by certain manufacturing processes and may be crimped at least by utilizing the differential rates of expansion and contraction of their component polymers. The Examiner utilized a definition in her rejection which differs from that explicitly written into the Specification.

Further, there is no mention of superabsorbent particles in the Ahr reference. Nor is there an indication

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that the Ahr reference materials are expandable. The Examiner indicated in the rejection of claim 11 below, that the reference remains silent as to the expandability of the absorbent material. In this regard, the Ahr reference describes the core as including high absorbent capacity and low bulk. The material is thermal bonded using embossing rolls. Such process would by necessity, limit expansion. Further, the Ahr reference describes the inclusion of cellulosic materials, albeit as optional components, which could collapse upon being moistened.

Finally, the Examiner asserted that the Ahr reference describes material that is fully capable of functioning as a surge or retention material. It is respectfully submitted that the reference does not describe at least surge materials anywhere in its text. With respect to the claims dependent from the independent claims, these would also be novel over the Ahr reference, at least for the reasons previously stated.

Additionally, the Examiner asserted that the Ahr reference teaches use of a binder at Col. 3, lines 3-4. Applicants note that Col. 3, lines 3-4 discuss a cross-linking agent for the Ahr superabsorbent polymers themselves. Binders in the current application are in contrast described to help provide mechanical integrity and stabilization and may also be used to adhere superabsorbent to the thermoplastic fibers. See in this regard page 12, lines 12-14. The Examiner asserted that the Ahr reference at Col. 3, lines 6-7, discloses a binder, and that it is a liquid. Applicants submit that this citation does not refer to a liquid. A similar observation would also be made to the Examiner's comments as to claim 10.

For these reasons, Applicants assert that the Ahr reference would not properly serve as a novelty reference against the current claims and, consequently, such rejection should be withdrawn.

By way of the same Office Action, the Examiner rejected claim 3 under 35 U.S.C. 103(a) as being unpatentable over Ahr et al. in view of McDowall (6,362,389). This rejection is traversed to the extent it is applied to the currently written claims. As previously stated, the Ahr reference fails to disclose or suggest numerous aspects of the claimed invention, and subsequently cannot serve as the basis of either a 102 or 103 rejection. Even if one were to combine the teachings of the Ahr reference with those of the McDowall reference, one would not arrive at the claimed invention. Additionally, the McDowall reference describes the use of cellulosic fibers as absorbent fibers, one of at least three components contained in the McDowall absorbent elastic nonwoven materials. For these reasons the rejection should be withdrawn.

By way of the same Office Action, the Examiner rejected claims 5 and 6 under 35 U.S.C. 103(a) as being unpatentable over Ahr in view of Mukaida et al. (5,672,419). This rejection is traversed to the extent it is applied to the currently written claims. As previously stated, the Ahr reference fails to disclose or suggest numerous aspects of the claimed invention, and subsequently cannot serve as the basis of either a 102 or 103 rejection. Even if one were to combine the teachings of the Ahr reference

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with those of the Mukaida reference, one would not arrive at the claimed invention. Note also the distinctions from Mukaida that Applicants raised in the previous response on this Application. For these reasons the rejection should be withdrawn.

By way of the same Office Action, the Examiner rejected claim 11 under 35 U.S.C. 103(a) as being unpatentable over Ahr. This rejection is **traversed** to the extent it is applied to the currently written claims. As previously stated, the Ahr reference fails to disclose numerous aspects of the claimed invention, including any expandable qualities of the material, and subsequently cannot serve as the basis of either a 102 or 103 rejection. In this regard, the Ahr reference describes the core as including high absorbent capacity and low bulk. The reference describes the possible inclusion of cellulosic fibers to achieve such performance. The reference also alludes to embossing of the various material layers, which would clearly act to prevent material expansion. Applicants therefore assert that the reference teaches away from the claimed invention, and certainly the specific numerical value of claim 11. For these reasons the rejection should be withdrawn.

Finally, by way of the same Office Action, the Examiner rejected claims 13 and 15 under 35 U.S.C. 103(a) as being unpatentable over Ahr in view of Jackson et al (5,350,370). This rejection is **traversed** to the extent it is applied to the currently written claims. As previously stated, the Ahr reference fails to disclose or suggest numerous aspects of the claimed invention, and subsequently cannot serve as the basis of either a 102 or 103 rejection. Even if one were to combine the teachings of the Ahr reference with those of the Jackson reference, one would not arrive at the claimed invention. Note also the distinctions from Jackson that Applicants raised in the previous response on this Application. For these reasons the rejection should be withdrawn.

A Petition for a One-Month Extension of Time has been filed contemporaneously with this action, extending the time to respond to April 30, 2004. Should the Examiner feel that any issues remain unresolved, she is encouraged to call the undersigned at:(770)-587-8646.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

Respectfully submitted,

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